

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stacy Paver	Team: Team # 4	CCRB Case #: 200809806	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/03/2008 3:12 AM	Location of Incident: Powell Blvd & West 135th Street	Precinct: 32	18 Mo. SOL 1/3/2010	EO SOL 1/3/2010	
Date/Time CV Reported Sat, 07/05/2008 9:35 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/09/2008 4:50 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Craig Jacob	03653	935049	032 PCT
2. Officers			
3. An officer			
4. POM Christop Derenze	14421	937903	032 PCT
5. SGT Alfred Gallicchio	01140	921359	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Philip Terpos	05095	931314	032 PCT
2. LT John McCormack	00000	884322	032 PCT
3. POM Brian Murphy	30790	906891	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christop Derenze	Force: PO Christop Derenze used physical force against § 87(2)(b) at Powell Boulevard and West 135th Street in Manhattan.	
B.POM Craig Jacob	Force: PO Craig Jacob used physical force against § 87(2)(b) at Powell Boulevard and West 135th Street in Manhattan.	
C. An officer	Discourtesy: An officer spoke obscenely and rudely to § 87(2)(b)	
D. An officer	Force: An officer pointed his gun at § 87(2)(b)	
E. Officers	Force: Officers used physical force against § 87(2)(b) while he was on the ground at Powell Boulevard and West 135th Street in Manhattan.	
F.SGT Alfred Gallicchio	Discourtesy: Sgt. Alfred Gallicchio spoke obscenely and rudely to § 87(2)(b) at Powell Boulevard and West 135th Street in Manhattan.	
G.SGT Alfred Gallicchio	Force: Sgt. Alfred Gallicchio used physical force against § 87(2)(b) at Powell Boulevard and West 135th Steet in Manhattan.	
H. Officers	Abuse: Officers searched the car in which § 87(2)(b) was an occupant.	

Officer(s)	Allegation	Investigator Recommendation
I.POM Christop Derenze	Discourtesy: PO Christop Derenze spoke obscenely and rudely to § 87(2)(b) at the 32nd Precinct stationhouse.	
J.SGT Alfred Gallicchio	Discourtesy: Sgt. Alfred Gallicchio spoke obscenely and rudely to § 87(2)(b) at the 32nd Precinct stationhouse.	
K.POM Craig Jacob	Discourtesy: PO Craig Jacob spoke obscenely and rudely to § 87(2)(b) at the 32nd Precinct stationhouse.	

Synopsis

On July 5, 2008, § 87(2)(b) called IAB and filed a complaint against NYPD officers (encl. 8a-b). The CCRB received IAB Log # 08-30123 regarding this case on July 9, 2008 (encl. 9a-b). On July 3, 2008, at approximately 3:12 AM, PO Christopher Derenze and PO Craig Jacob, both assigned to the 32nd Precinct, effected a car stop of the vehicle in which § 87(2)(b) an occupant. § 87(2)(b) was pulled over on 7th Avenue and 135th Street in Manhattan for excessive window tints and a loud car exhaust. His friend, § 87(2)(b) was seated in the front passenger seat and § 87(2)(b)'s nephew, § 87(2)(b) (unknown last name), was seated in the rear of the vehicle. PO Derenze asked § 87(2)(b) to exit the vehicle several times and § 87(2)(b) refused to comply. PO Derenze and PO Jacob pulled § 87(2)(b) out of the vehicle (**Allegation A and B**). § 87(2)(b) alleged that he heard an officer, whom he did not observe, tell § 87(2)(b) "Put your fucking hands up, keep your fucking hands up (**Allegation C**).” He also stated that he saw a gun pointed at § 87(2)(b) but did not observe the officer who allegedly pointed it (**Allegation D**). After § 87(2)(b) was removed from the vehicle, he was placed on the ground. He alleged that while he was on the ground, he was kned in his lip and was kicked on his torso (**Allegation E**). § 87(2)(b) alleged that Sgt. Alfred Gallicchio, assigned to the 32nd Precinct, told him to, "Say something now, fucking tough guy" and pushed him into a parked vehicle (**Allegations F and G**). § 87(2)(b) alleged that he observed his vehicle being searched by several officers, whom he could neither describe nor identify (**Allegation H**). § 87(2)(b) alleged that when his vehicle was returned to him, he observed damage to the vehicle that was not there before he was arrested. § 87(2)(b) and § 87(2)(b) were neither arrested nor issued summonses. § 87(2)(b) was transported to the 32nd Precinct stationhouse. At the stationhouse, he alleged that PO Derenze called him a "jerk-off", that Sgt. Gallicchio called him an "asshole," and that PO Jacob told him that the sergeant called him an "asshole" (**Allegations F I, J, and K**).

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b). At the time of his interview, § 87(2)(b) was § 87(2)(b).

§ 87(2)(b) provided a telephone statement to the CCRB on July 17, 2008 (encl. 10). He provided a statement at the CCRB on August 25, 2008 (encl. 11a-f). He also provided an additional telephone statement to the CCRB on September 23, 2008 (encl. 12). His statements were consistent except where noted below.

On July 3, 2008, at approximately 3:12 AM, § 87(2)(b) drove southbound on 7th Avenue in Manhattan to take his friends to their home. § 87(2)(b) sat in the front passenger seat and his nephew, § 87(2)(b) (unknown last name), sat in the back passenger side of the vehicle. § 87(2)(b) is a § 87(2)(b). § 87(2)(b) is a § 87(2)(b). § 87(2)(b) owns the car he drove, but the registration is under his girlfriend's

name § 87(2)(b). His vehicle is a 1989 Chevy Caprice, which is purple in color, has 22-inch rims, bright high beams, and tinted windows on the windows and the back windshield. The back windshield is tinted dark. The front windshield is not tinted. In addition, the vehicle has a loud exhaust, which contains “flow master.” While he drove, the front windows were all the way down and the back windows were half way down (as far down as they can go).

On 136th Street, § 87(2)(b) observed approximately six marked and unmarked patrol cars stopped at what appeared to be a party. His exhaust pipes were not loud at this time because he was not driving fast and he was “cruising.” § 87(2)(b) reached a traffic light at 135th Street. After the light changed, § 87(2)(b) observed a marked patrol car with the turret lights on behind him. § 87(2)(b) drove in the middle lane at that time and he stated that the officers would have been able to pass him if he did not move. § 87(2)(b) believed that they were going to drive past him and § 87(2)(b) pulled over to the right lane so the patrol car could pass him, but the patrol car moved behind him. § 87(2)(b) pulled his vehicle over on 7th Avenue between 134th Street and 135th Street and the patrol car stopped behind him. § 87(2)(b) turned his vehicle off and placed his car keys on the roof of his vehicle.

Two officers exited the patrol car. PO Christopher Derenze (identified by his badge), who was seated in the driver’s seat of the patrol car, approached § 87(2)(b)’s window and the officer from the passenger side of the car, PO Craig Jacob (identified by his badge and as the arresting officer), approached § 87(2)(b)’s passenger side window. § 87(2)(b) observed the officers exit the vehicle and approach the car. § 87(2)(b) described PO Derenze as having a “spiky high-top hair cut”, between twenty-four and twenty-five-years-old, clean shaven, 5’6” tall, of either Italian or Hispanic descent, and weighs 165 pounds. He described PO Jacob him as a white male officer with black hair, who was 5’9” tall, weighed 170 pounds, and was between twenty-eight and thirty-three years old.

§ 87(2)(b) immediately asked PO Derenze, “Why did you pull me over?” PO Derenze stated, “Get out of the car or I am going to drag you out.” § 87(2)(b) stated that nothing happened between his statement and PO Derenze’s statement. § 87(2)(b) was never told why he had to exit the vehicle. § 87(2)(b) asked, “Drag me out for what, I didn’t do anything wrong.” He also asked, “Get out of the car for what?” PO Derenze again stated, “If you don’t get out of the car, I am going to drag you out.” § 87(2)(b) asked, “Y’all don’t want to see my paperwork or nothing and y’all just going to drag me out of the car?” He also informed PO Derenze that his license and insurance were clear. PO Derenze asked § 87(2)(b) approximately three times to exit his vehicle. PO Derenze then opened the door, and tried to “drag” § 87(2)(b) out of his vehicle. § 87(2)(b)’s seatbelt was still on. PO Jacob stated, “He has his seatbelt on.” An officer, whom he did not observe, then unlocked § 87(2)(b)’s seatbelt. § 87(2)(b) was pulled out of the vehicle by his torso and by his arms.

While § 87(2)(b) was being dragged out of the vehicle, an unidentified officer told § 87(2)(b) “Put your fucking hands up, keep your fucking hands up.” § 87(2)(b) did not see which officer did this, but he observed a gun pointed at § 87(2)(b).

§ 87(2)(b) asked, “What are y’all doing?” and “I can’t believe y’all doing this.” § 87(2)(b) did not raise his voice and did not use any profanity. Multiple unidentified officers had their hands on him. He did not know if PO Jacobs ever left the passenger side of his vehicle when he was being removed from his vehicle. At the time he was removed from the vehicle, there were between six and seven uniformed officers present and he stated that when he was forced onto the ground, it took approximately six officers to place him on the ground. One officer was a white male in uniform, with no facial hair, between 28 and 29 years old, 5’6” tall, and weighed 160 pounds. He stated that the above-mentioned officer’s partner was white, but could not provide a further description.

When § 87(2)(b) was completely removed from his vehicle, he was in a standing position. The officers repeatedly told him, “Stop resisting” and § 87(2)(b) repeatedly stated that he was not resisting. He was told approximately three times by multiple unidentified officers to stop resisting. PO Derenze stood with him and held him in a rear handcuff position and § 87(2)(b) was handcuffed while he stood. Officers then brushed his legs out from under him and he was placed on the ground. As he was brought to the ground, officers held his legs. He did not move his body, arms, legs, never yelled, and he cooperated with the officers. § 87(2)(b) did not receive any injuries from when he made contact with the ground.

When he first got to the ground, an officer bent his knee back. He did not receive any injuries as a result of this force and he did not know why an officer would bend his leg. No officer said anything and § 87(2)(b) asked why they were doing what they were doing. § 87(2)(b) lay on the ground on his stomach and did not move. An officer,

whom he did not observe, kneed him on the right side of his upper lip. § 87(2)(b) stated he was on his side when he was kneed and he believed an officer had turned him to his side. When he was kneed in the mouth, his head was faced sideways, to the left. When he was kneed in the mouth, he stated, "Oh shit, they just kneed me in my mouth." § 87(2)(b) later stated he was handcuffed on the ground and then stated again he was handcuffed while he stood. § 87(2)(b)'s lip did not bleed nor was it swollen. § 87(2)(b) stated that he pierced his skin with his tooth as a result of being kneed.

While § 87(2)(b) was on the ground, § 87(2)(b) was kicked on his left side and ribs. He did not observe any officer who kicked him. His head faced toward the right and he was being kicked on the left. He never saw an officer kick him and he stated he was kicked approximately five times. PO Derenze and Sgt. Gallicchio (identified by the investigation) helped pick § 87(2)(b) up from the ground. He stated that he knew that Sgt. Gallicchio was a sergeant because later in the evening, officers called him "sarg" at the stationhouse. He never saw anything distinguishing on the sergeant's uniform to identify him as a sergeant, but he also stated that he would not be able to recognize an officer's rank based on the uniform. § 87(2)(b) described the sergeant as a white male who was "heavy-set" but not "fat", between 5'7" and 5'8" tall, and weighed between 210 and 220 pounds.

Sgt. Gallicchio escorted § 87(2)(b) to a patrol car. When the patrol car doors were still closed, the sergeant pushed § 87(2)(b) with one hand into the patrol car approximately three times. He did not receive any injuries from this and the sergeant did not say anything. He was searched and an officer obtained his identification for the first time. Also present was an unmarked Ford Explorer, and a total of approximately six vehicles. During a telephone conversation on July 17, 2008, § 87(2)(b) stated that there was one marked patrol car, a patrol van, and a tan Crown Victoria on the scene.

§ 87(2)(b) believed officers spoke with his friends, but he did not know the nature of their conversation and they did not communicate anything to § 87(2)(b) regarding these conversations. § 87(2)(b) and § 87(2)(b) were neither issued summonses nor were they arrested. An officer in a white shirt arrived to the incident location after § 87(2)(b) was already handcuffed and in the patrol car. Sgt. Gallicchio spoke with the officer in the white shirt. Sgt. Gallicchio returned to the car in which § 87(2)(b) was seated and stated, "Say something now, fucking tough guy." During a telephone conversation on July 17, 2008, § 87(2)(b) stated that he believed Sgt. Gallicchio transported him to the stationhouse.

§ 87(2)(b) stated that an officer he identified as "PO Johnson" was present during this incident, but he only watched § 87(2)(b) while he was in the patrol car.

While § 87(2)(b) was seated in the patrol car, he observed his vehicle being searched. He did not observe which officers searched his vehicle. The officers used flashlights and looked on the floor and in the trunk of the vehicle. § 87(2)(b) did not know what they looked for and they never asked him questions regarding the contents of his vehicle. An officer drove § 87(2)(b)'s vehicle to the stationhouse.

Prior to being stopped, the vehicle was in good condition except the car was purchased with a damaged bumper. PO Jacob allowed § 87(2)(b) to call his sister to pick up his vehicle. His sister informed him that she drove the car to 137th Street and St. Nicholas Avenue. When § 87(2)(b) came home, he went to her house and she informed him that the front passenger handle to the door was missing from the vehicle and there were scratches on the passenger side of the car; it appeared that the car was driven against a gate. The paint was chipped where the scratches were on the side of the car. The entire back seat had been removed. During a telephone conversation on July 17, 2008, § 87(2)(b) stated that the tires were worn down and they were not before it was transported to the stationhouse, and that the console in the passenger seat was ripped, and the computer was on the floor, but did not make these allegations during his in-person interview.

§ 87(2)(b) hurt his lip as a result of this incident. When he was at the precinct, § 87(2)(b) was asked if he had any injuries and § 87(2)(b) showed the sergeant his lip. § 87(2)(b) never verbally requested medical attention and he stated that he did not want any because then his paperwork would be pushed back. § 87(2)(b) stated that he had \$922.00 in his wallet and Sgt. Gallicchio would not let him bring \$100.00 with him to Central Booking because he stated that § 87(2)(b) was an "asshole." While they were in the holding cell area, PO Jacob asked § 87(2)(b) "Why didn't you just stay quiet? All we wanted to do was search your car and then let you be on your way."

PO Derenze stood at the desk and the desk officer asked PO Derenze, “Whose rights are we violating tonight?” PO Derenze responded, “Just some jerk-off.” PO Derenze was present at the precinct with his arresting officer, PO Jacob.

§ 87(2)(b) was arrested for obstruction of governmental administration. At arraignment, § 87(2)(b) s attorney told him that he failed to accept a traffic ticket.

§ 87(2)(b) did not have § 87(2)(b) s contact information with him and he stated that § 87(2)(b) lives at the same address as § 87(2)(b). § 87(2)(b) also stated that he had pictures of his vehicle that he took on July 5, 2008. § 87(2)(b) stated he would call with this information and send the pictures as well as a copy of his registration.

Photographs

On August 28, 2008, § 87(2)(b) e-mailed the CCRB five photographs of the damage he alleged to his vehicle as a result of this incident. The photographs show the objects in the interior of the vehicle in disorder, a back seat that is removed from the holder, and scratches on the side of the vehicle near the door handle (encl. 13a-f).

Results of Investigation

Attempts to Contact Victim/Witness

§ 87(2)(b) and § 87(2)(b) (unknown last name)

Only July 17, 2008, § 87(2)(b) provided details regarding his complaint and stated that he would bring his witness contact information to the interview (encl. 10). During his CCRB interview on August 25, 2008, § 87(2)(b) stated that his friend § 87(2)(b) was a victim and a witness to this incident and § 87(2)(b) s nephew, § 87(2)(b) (unknown last name), was a witness to this incident. § 87(2)(b) did not have § 87(2)(b) s contact information with him and he stated that § 87(2)(b) lived at the same address as § 87(2)(b) (encl. 11a-f). Neither § 87(2)(b) nor § 87(2)(b) were arrested or issued summonses. Stop and Frisk reports were not prepared for either § 87(2)(b) or § 87(2)(b). § 87(2)(b) stated that he would call with their contact information. On August 27, 2008, the undersigned called § 87(2)(b) and requested § 87(2)(b) s contact information. § 87(2)(b) stated that he would send the information via e-mail. He did not do so. On September 23, 2008, the undersigned called § 87(2)(b). § 87(2)(b) stated that § 87(2)(b) does not have a telephone number. He also stated that he did not have an address because he moves around from house to house. § 87(2)(b) was asked if § 87(2)(b) receives mail anywhere and he stated that he did not know where. § 87(2)(b) stated that he was going to see § 87(2)(b) later in the day and he stated he would both ask for an address or contact number from him for where he can be reached and call back with the information and he stated that he would provide § 87(2)(b) with the undersigned’s contact information. On August 28, 2008, § 87(2)(b) e-mailed the undersigned, but did not include any contact information for § 87(2)(b) (encl. 13a-f). § 87(2)(b) did not provide any contact information for § 87(2)(b) or § 87(2)(b). No officer provided any contact information of § 87(2)(b) or § 87(2)(b). Without any information regarding an approximate vicinity of a residence, a telephone number, or a date of birth, searches cannot be conducted to find them because they have common names. § 87(2)(b) and § 87(2)(b) have yet to be located.

Officer Statements

PO Craig Jacob

On July 3, 2008, PO Jacob, a four-year veteran of the NYPD, assigned to the 32nd Precinct, worked from 11:15 PM through 7:50 AM. He was assigned to Sectors A, B, and C and worked with PO Derenze. He was dressed in uniform and was assigned to a marked RMP #2227 (encl. 24a-t). PO Jacob is a § 87(2)(b). Since the date of the incident, PO Jacob has been assigned to the Manhattan North Task Force.

PO Jacob later provided the following memo book entries regarding this incident:

0305: car stop-7th Avenue s/b at West 134th Street for tinted windows. § 87(2)(b) Defendant- § 87(2)(b) § 87(2)(b) § 87(2)(b), 1989 Chevy Caprice, § 87(2)(b) § 87(2)(b) loud exhaust- defendant combative, refused paperwork/exit vehicle.

0312: One under-OGA resisting

0315: Transporting 1 male to 32nd stationhouse. Vehicle transport by PO Murphy.

0430: § 87(2)(b) requests that his 89 purple Chevy Caprice be turned over to § 87(2)(b) same address NYS Dr. # § 87(2)(b) signed the memo book to release vehicle

0440: "I § 87(2)(b) accept the above listen vehicle, keys, registration. § 87(2)(b) signed the memo book.

0450: Voucher § 87(2)(b). Voucher § 87(2)(b) cell phone and battery

0535: Transport one male perp to 28 hub (encl. 14a-e).

On December 17, 2008, PO Jacob was interviewed at the CCRB (encl. 15a-d).

On July 3, 2008, at approximately 3:12 AM, PO Jacob and PO Derenze drove in the vicinity of 135th Street, and traveled southbound on 7th Avenue. PO Jacob was seated in the passenger seat and PO Derenze drove. No other officers were inside the vehicle. PO Jacob observed a purple vehicle with a loud exhaust and excessively tinted windows. All of the windows except the windshield were tinted. PO Jacobs was not able to see inside the vehicle.

They attempted to pull § 87(2)(b)'s vehicle over by activating the turret lights. § 87(2)(b) cooperated and pulled his vehicle over. PO Jacob exited the patrol car and approached the passenger side. PO Derenze approached the driver's side. No other officers were present at this time. When PO Jacob approached the vehicle, he did not have his gun drawn. At some point he could not recall, § 87(2)(b)'s car windows were rolled down and he observed a § 87(2)(b) black male passenger in the vehicle. PO Jacob never pointed his gun at anyone during the vehicle stop. PO Derenze did not have his gun drawn at any time and did not point it at anyone inside of the vehicle. As PO Jacob approached the stopped vehicle, the driver, § 87(2)(b) asked, "What the fuck are you stopping me for?"

PO Derenze asked § 87(2)(b) for his license, registration, and insurance. § 87(2)(b) replied, "I don't have to give you shit." PO Derenze asked § 87(2)(b) again for his paperwork. Again, § 87(2)(b) told PO Derenze that he did "not have to give [him] shit." PO Derenze asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) said, "No" and told PO Derenze that he knew his rights and he did not have to exit the vehicle.

PO Jacob walked to the driver's side of the vehicle after PO Derenze asked § 87(2)(b) the first time to exit the vehicle. § 87(2)(b) was again asked to step out of the vehicle and again, he refused. PO Jacob feared for his safety because he could not understand why § 87(2)(b) would not exit the vehicle. No officer told § 87(2)(b) that if he did not exit the vehicle then he would be "dragged" out. They opened the door and removed § 87(2)(b) from the vehicle. Both he and PO Derenze held § 87(2)(b) by his shoulders and he was immediately brought to the ground facedown to be handcuffed. § 87(2)(b) was not standing when he was brought out of the vehicle; he was brought from the car seat directly to the ground. PO Jacob explained they did this as a tactical maneuver to restrain § 87(2)(b). There was no obstruction such as a seatbelt. As they attempted to place § 87(2)(b) in handcuffs, § 87(2)(b) pulled his arms away from the officers and prevented them from handcuffing him. PO Jacob did not hear § 87(2)(b) say anything while he was being handcuffed. He never saw § 87(2)(b)'s face make contact with the ground. § 87(2)(b) was eventually handcuffed. PO Jacob did not recall who handcuffed him and he stated that it did not take more than one minute to place the handcuffs on § 87(2)(b). While § 87(2)(b) was on the ground, PO Jacob kneeled down. While § 87(2)(b) was being handcuffed, no other officers were present. PO Jacobs did not recall if he or PO Derenze issued § 87(2)(b) any commands while he was on the ground. Neither he nor PO Derenze kneed § 87(2)(b) in his upper right lip while he was on the ground. § 87(2)(b) did not complain of any injury to his lip and PO Jacob did not observe any injury to § 87(2)(b)'s lip. No officer kicked § 87(2)(b) in his left ribs.

While § 87(2)(b) was on the ground, neither PO Jacob nor PO Derenze called for backup. No other officers were present during the incident, but a sergeant might have come afterwards to verify the arrest. He knew a sergeant was notified, but did not know if he actually came to the arrest location. Lt. McCormack was the desk officer. PO Jacob did not observe an unmarked Ford Explorer at the arrest location.

PO Jacob stated that at the arrest location, he looked quickly inside of the vehicle to see if there were any drugs or guns. He looked under the seat and the center part of the car and did not find anything. He stated that the inside of § 87(2)(b)'s vehicle was "messy," but did not notice damage to the interior or exterior of the vehicle. He did not recall any other officer searching the vehicle. He did not know who transported § 87(2)(b)'s vehicle to the stationhouse. PO Jacob released § 87(2)(b)'s vehicle to an individual, but did not take part in any search of the vehicle in the stationhouse and did not know of any officer who did. It was explained that § 87(2)(b) alleged that he the entire backseat of his vehicle was pulled out of the holder. PO Jacob did not observe this. He also did not observe any scratches to the side of the vehicle or a broken door handle at any time. No officer stated, "Say something now, fucking tough guy" at the arrest location.

At the arrest location, PO Jacob asked the passenger in § 87(2)(b)'s vehicle if § 87(2)(b) had any mental problems, if he was on drugs, or if he had any medication that he had not taken. He stated no. PO Jacob asked the passenger if he knew why § 87(2)(b) acted in the manner that he did and the passenger stated that § 87(2)(b) did not like officers in general and he had an interaction with officers shortly before this incident.

PO Jacob stated that § 87(2)(b) had an excess of \$100.00 that he could not bring to Central Booking and he also had a cell phone, which was vouchered. He did not recall having a conversation with § 87(2)(b) about this. No officer called § 87(2)(b) a "jerk off." § 87(2)(b) was arrested for governmental administration and resisting arrest. § 87(2)(b) did not receive summonses for the tinted windows. PO Jacob added that the vehicle was registered to someone else. PO Jacob provided a picture of § 87(2)(b) at the time of his arrest and a medical form that § 87(2)(b) signed, which stated that he had no injuries or illnesses (prisoner movement slip and the Patrol Borough Manhattan North Guidelines).

During this incident, § 87(2)(b) was uncooperative. In the stationhouse, § 87(2)(b) acted "civil" but still refused to answer questions and cooperate. In the stationhouse, PO Jacob asked § 87(2)(b) if there was a reason he acted in the manner that he did and § 87(2)(b) did not reply.

PO Christopher Derenze

On July 3, 2008, PO Derenze, a three-year veteran of the NYPD, assigned to the 32nd Precinct, worked from 12:00 AM through 8:00 AM. He was assigned to Sectors A, B, and C and worked with PO Jacob (encl. 24a-t). He was dressed in uniform and was assigned to marked RMP #2381. PO Derenze is a § 87(2)(b).

PO Derenze provided the following memo book entries regarding this incident:

0305: car stop, 7th Avenue Southbound, 134th, tint
0312: one under
0315: transport to 32 vehicle transport by PO Murphy (encl. 16a-c).

On December 16, 2008, PO Derenze was interviewed at the CCRB (encl. 17a-c).

PO Derenze's statement was consistent with that of PO Jacob regarding the circumstances surrounding the car stop.

PO Derenze exited the vehicle and approached the driver side. PO Jacob exited the vehicle and approached the passenger side. No other officers were present when they approached § 87(2)(b)'s vehicle. No officer had his gun drawn or pointed at any time during this incident. PO Derenze stated that because the windows were tinted, he did not know who was inside of the vehicle. PO Derenze asked for § 87(2)(b)'s license, registration, and insurance. § 87(2)(b) asked, "Why the fuck did you pull me over?" PO Derenze told him he was pulled over for tinted windows. PO Derenze again asked § 87(2)(b) for his license, registration, and insurance. § 87(2)(b) replied, "I don't have to give you shit." PO Jacob walked from the passenger side of § 87(2)(b)'s vehicle to the driver's side at this time. PO Derenze asked § 87(2)(b) for a third time for his license, insurance, and registration, and, again, § 87(2)(b) replied, "I don't have to give you shit."

PO Derenze also observed a male identified as § 87(2)(b) seated in the front passenger seat.

PO Derenze asked § 87(2)(b) to step outside of his vehicle. § 87(2)(b) replied, "I don't have to fucking listen to you." PO Derenze asked § 87(2)(b) one more time to step out of the vehicle and § 87(2)(b) stated the same thing. PO Derenze and PO Jacob pulled § 87(2)(b) out of the vehicle and placed him under arrest. PO Derenze grabbed § 87(2)(b)'s arm and was not sure where PO Jacob held onto § 87(2)(b). He also did not know if § 87(2)(b) wore a seatbelt at the time he was being pulled out of the vehicle. While they pulled § 87(2)(b) out of the vehicle, no other officers were present. PO Derenze did not call for backup at the location. He did not know if PO Jacob called for backup. While § 87(2)(b) was being taken out of the vehicle, he flailed his arms to avoid being handcuffed. He also moved his whole body so they could not handcuff them. His arms moved back and forth. The officers took him to the ground and he was handcuffed on the ground. Both PO Derenze and PO Jacob placed him to the ground. PO Derenze did not observe an injury to his upper lip. He did not see § 87(2)(b)'s face make contact with the ground.

While they tried to handcuff § 87(2)(b) he flailed his arms and resisted, which made it difficult to handcuff him. PO Derenze told § 87(2)(b) to place his hands behind his back several times. He did not recall if PO Jacob issued § 87(2)(b) any commands. The officers handcuffed § 87(2)(b). He did not know who placed the handcuffs on § 87(2)(b). No other officer assisted in the handcuffing aside from PO Jacob. No other officers were present. No officer knelt § 87(2)(b) in the face. It took approximately fifteen seconds to handcuff § 87(2)(b). He stated that § 87(2)(b) flailed his body and moved his legs as well.

PO Derenze did not recall any other vehicles responding to the incident and did not observe an unmarked Ford Explorer. The officers did not call a sergeant or lieutenant to the location.

§ 87(2)(b) was transported to the stationhouse in the back of PO Derenze's patrol car. No officer told § 87(2)(b) to, "Say something now fucking tough guy" while § 87(2)(b) was near or seated in the patrol car. The vehicle was transported to the stationhouse. He stated that PO Murphy transported the vehicle, and stated that he must have been at the location, but he had no independent recollection of PO Murphy being present at the incident location and he did not observe a search of § 87(2)(b)'s vehicle.

At no time did PO Derenze observe the inside of § 87(2)(b)'s vehicle. It was explained that § 87(2)(b) alleged that the entire back seat of his vehicle was pulled out and that there were scratches on the outside of the vehicle and one of the door handles was broken. He never observed this, never searched the vehicle, and never heard from any officer that there was damage to the vehicle.

Both PO Derenze and PO Jacob entered the stationhouse together with § 87(2)(b). They approached the front desk. He did not recall who was seated at the desk. He stated that he did not recall any sergeant who worked or that he worked with. PO Derenze stated that no officer used the word "asshole." No officer in the vicinity of the desk asked, "Whose rights are we violating?" No officer called § 87(2)(b) a "jerk-off." PO Derenze did not recall any conversation that occurred at the desk and he did not recall any officers who were present at the desk.

Lt. John McCormack

On July 3, 2008, Lt. McCormack, a twenty-four-year veteran of the NYPD, assigned to the 32nd Precinct, worked from 11:00 PM through 7:45 AM. He was assigned as the platoon commander/desk officer. He worked with Sgt. Terpos. He was not assigned to a motor vehicle and was dressed in uniform (encl. 24a-t). Lt. McCormack is a § 87(2)(b).

Lt. McCormack stated that he did not have any entries in his memo book regarding this incident, but used the command log to document his activities (encl. 26a-f). He looked at the command log and stated that at 2:11 AM, Sgt. Terpos was assigned to the desk and Lt. McCormack stated that he inspected the stationhouse at that time. At 3:15 he stated that Sgt. Terpos was the officer who made the entry that PO Jacobs arrested § 87(2)(b). At 3:16 AM, Lt. McCormack came back to the desk with his results from the stationhouse inspection. Lt. McCormack was asked if any part of the entry for § 87(2)(b) was in his handwriting and he stated that he was the one who wrote that § 87(2)(b) went to the 28th Precinct stationhouse at 5:35 AM and he wrote an entry that § 87(2)(b) received copies of his property vouchers for \$922.00.

On December 11, 2008, Lt. McCormack was interviewed at the CCRB (encl. 22a-c). On July 3, 2008, at approximately 3:12 AM, Lt. McCormack was inside of the stationhouse. He stated that he had no recollection of § 87(2)(b). Lt. McCormack was shown a photocopy of § 87(2)(b)'s New York State Driver's License and stated that he still did not know who § 87(2)(b) was. He did not recall if he was present when Sgt. Terpos entered § 87(2)(b)'s arrest into the command log, he did not recall.

At no time did Lt. McCormack leave the stationhouse. He was never called to respond to an incident outside of the stationhouse. No other sergeants or lieutenants were assigned to the tour 1 roll call aside from him and Sgt. Terpos.

He did not recall anyone inside of the stationhouse complain about his or her vehicle. Lt. McCormack did not recall if any officer told him anything in regarding to § 87(2)(b)'s arrest.

Lt. McCormack stated that no officer used the word "asshole." Lt. McCormack did not hear any conversation regarding an officer asking § 87(2)(b) why he did not allow them to search his vehicle. No officer referred to § 87(2)(b) as a "jerk off."

Lt. McCormack did not recall if any other sergeants or lieutenants worked overtime from the tour on the previous evening.

Sgt. Philip Terpos

On July 3, 2008, Sgt. Terpos, a six-year veteran of the NYPD, assigned to the 32nd Precinct, worked from 11:05 PM through 8:02 AM. He was assigned to patrol and then was assigned to the desk at 1:30 AM. At 3:45 AM, he left the desk and then went back on patrol. His operator for the evening was PO Luis Baez. He wore a uniform and was assigned to a marked patrol car (encl. 24a-t). Sgt. Terpos is a § 87(2)(b).

Sgt. Terpos stated that his memo book showed that from 1:30 AM through 3:45 AM he was assigned to the stationhouse desk. At 4:22 AM he went to 198 Brathurst Avenue (encl. 20).

On December 10, 2008, Sgt. Terpos was interviewed at the CCRB (encl. 21a-b).

On July 3, 2008, at approximately 3:12 AM, he was on the desk. Sgt. Terpos was shown a photograph of § 87(2)(b)'s New York State Driver's License. He did not recognize him. Sgt. Terpos stated that he could not leave the stationhouse when he was on the desk and he would not have responded to this incident. Sgt. Terpos was shown the command log. He stated that he was on the desk when § 87(2)(b) entered the stationhouse. He recognized his handwriting in the command log for the entry for § 87(2)(b). He stated that the entry after he entered § 87(2)(b)'s pedigree information, had different handwriting, which indicated to Sgt. Terpos that he left the stationhouse at that time. He did not recall if § 87(2)(b) acted disorderly in the stationhouse.

Sgt. Terpos stated that if an officer is assigned to the desk, they sign off on complaint reports and arrest reports and don't have to physically be present during the actual interaction. He stated that he did not know of any other sergeants who worked on the date of the incident. Lt. McCormack relieved him on the desk.

It was explained to Sgt. Terpos that § 87(2)(b) alleged at the incident location he was pulled out of his vehicle and his vehicle was subsequently searched. Sgt. Terpos did not hear that this occurred from any officer. Sgt. Terpos stated that at no time would he have any contact with § 87(2)(b)'s vehicle and he stated that at the stationhouse, he would have no contact with the vehicle. Sgt. Terpos did not observe § 87(2)(b)'s vehicle.

It was explained that § 87(2)(b) alleged that while he was at the desk in the stationhouse an officer asked, "Whose rights are we violating tonight?" Sgt. Terpos stated that he did not make this statement. Sgt. Terpos stated that no officer stated that § 87(2)(b) was "some jerk off." Sgt. Terpos stated that no officer used the word "asshole."

Sgt. Terpos stated that he did not have an independent recollection of any of the events on that date.

Sgt. Alfred Gallicchio

On July 2, 2008, Sgt. Gallicchio, a ten-year veteran of the NYPD, assigned to the 32nd Precinct, worked from 7:15 PM through 4:12 AM. He was assigned as the impact sergeant, wore a uniform, and was assigned to a marked patrol car. He did not have the vehicle number (encl. 24a-t). Sgt. Gallicchio is a § 87(2)(b).

Sgt. Gallicchio did not have any memo book entries regarding this incident or at the approximate time of the incident (encl. 18a-b).

On May 11, 2009, Sgt. Gallicchio was interviewed at the CCRB (encl. 19a-b).

On July 3, 2008, at approximately 3:12 AM, Sgt. Gallicchio stated that he would likely have arrived at the stationhouse to prepare for an end of tour, though he could not be sure. He did not have a recollection of this incident and did not have any notation in his memo book that he ever arrived at the incident location. He stated that the incident occurred approximately one half of a block away from the stationhouse. Sgt. Gallicchio stated that if there was a car stop that he passed by, it would be likely that he would stop to see if the officers needed assistance. He stated that he was unsure if his driver that date was PO Murphy or PO Jones. He stated that if an officer he was with drove the car to the stationhouse, his driver would transport the arrestee's vehicle and he would drive to the stationhouse in the RMP. No other sergeants worked with the impact team.

Sgt. Gallicchio was shown a copy of the roll call. He stated that his assignment and tour were correct. He stated that he worked with the impact officers and based on the roll call, he did not know whom he was assigned to a vehicle with. Sgt. Gallicchio was shown SPRINT reports for incidents in the vicinity of the area at the approximate time of the incident. The SPRINT reports did not aid in his recollection of the incident. He stated that the precinct is small and there was a chance that he drove by the incident. He was shown a photograph of § 87(2)(b)'s New York State Driver's license. He did not recognize § 87(2)(b).

Sgt. Gallicchio was told that PO Derenze and PO Jacob pulled § 87(2)(b)'s purple colored vehicle over for a tinted windows violation. Sgt. Gallicchio knew who the officers were, but did not recall if he interacted with them during a vehicle stop on this date. He was told that it was documented in an officer's memo book that PO Murphy transported § 87(2)(b)'s vehicle to the stationhouse.

He stated that the only lieutenants working would have either been on the desk or in plainclothes. He stated that Lt. O'Neill and Lt. Odea wear plainclothes. He did not know if he was called to verify arrests, but stated that usually the patrol supervisor would do that and he would only deal with the officers assigned to impact.

No officer told § 87(2)(b) "State something now fucking tough guy." It was explained that there were three occupants in the vehicle and that only one was arrested. He stated that he did not know anything about a search of a vehicle. He was shown photographs taken by § 87(2)(b) of his vehicle and stated that the photographs did not help him recall the car and he did not observe that damage to a vehicle. He did not search a vehicle in the stationhouse.

Sgt. Gallicchio was shown the command log around the time § 87(2)(b) entered the stationhouse, and stated that he might have been around, but was not sure. He did not recall any conversation at the desk. He also did not recall any conversation where an arrestee was called "asshole" or referred to as a "jerk off."

PO Brian Murphy

On July 2, 2008, PO Murphy, a 15-year veteran of the NYPD, assigned to the 32nd Precinct, worked from 7:30 PM through 4:05 AM on July 3, 2008. He was not sure what his assignment was, but believed that he was the sergeant operator. He stated that he would have worked with Sgt. Gallicchio, but was not sure, and was assigned to a marked patrol car, but did not have the vehicle number. He wore uniform (encl. 24a-t)). PO Murphy is a § 87(2)(b).

PO Murphy did not have his memo book and explained that he lost it in August 2008.

On April 14, 2009, PO Murphy was interviewed at the CCRB (encl. 23a-c).

On July 3, 2008, at approximately 3:12 AM, there was a car stop conducted by PO Jacob and PO Derenze, who are officers assigned to the 32nd Precinct. He believed that they observed PO Derenze and PO Jacob with a vehicle that was already pulled over and they decided to pull over as well to see what was going on. He did not recall if anyone was outside of the either the civilian's vehicle or the patrol car. He did not recall if any other officers were inside the vehicle that he and Sgt. Gallicchio were inside. He did not believe that any other officers or patrol cars were present when he pulled over aside from PO Derenze and PO Jacob.

He exited the patrol car and observed a struggle between § 87(2)(b) and one of the officers whom he initially observed when he pulled over. The struggle occurred while one of the officers, whom he could not recall, attempted to take § 87(2)(b) out of the vehicle to place him under arrest.

He stated that he did not recognize § 87(2)(b) but added that he probably would not recognize him. It was explained that § 87(2)(b) was the driver of the vehicle. He did not hear § 87(2)(b) say anything or observe him do anything. He did not recall if any officer issued § 87(2)(b) any commands. He stood to the right-hand side of the vehicle, toward the back, and it was difficult for him to hear what was being said. He did not draw or point his weapon and did not observe any other officer do so. He knew there was a struggle because there was a lot of moving around, but he remained focused on the passenger in the vehicle. He did not observe if § 87(2)(b) had his seatbelt on during this struggle. He only recalled that there were two individuals inside of the vehicle. He believed only one officer took § 87(2)(b) out of the vehicle. He did not have any physical contact with § 87(2)(b). He did not know if Sgt. Gallicchio assisted in removing § 87(2)(b) from the vehicle and he did not know how he was removed from the vehicle. He did not recall seeing § 87(2)(b) outside of the vehicle. PO Murphy could not further describe the struggle he observed.

He did not observe § 87(2)(b) being handcuffed, did not know if § 87(2)(b) was on the ground at any time, and did not know if § 87(2)(b) struggled with any officer while he was outside of his vehicle. He did not observe any officer have their gun pointed or drawn. Nothing about § 87(2)(b)'s vehicle stood out to him.

§ 87(2)(b) was arrested. PO Murphy did not know what he was arrested for and noted that he had a limited recollection of the incident.

When asked if any other officers arrived at the location after he did, he stated that he believed that they did, but he did not recall who they were. He believed there was at least one other vehicle present after he arrived, but he did not know if the car was a van, unmarked, who was there, or what role, if any, the officers inside of that vehicle played. He did not know if any other officers aside from the initial officers at the location assisted in handcuffing § 87(2)(b).

He did not know if § 87(2)(b) resisted being handcuffed. It was explained that § 87(2)(b) alleged that while he was on the ground, his leg was bent, he was kneed in his lip, and that he was kicked on his left side and ribs. PO Murphy stated that he did not recall any officer do anything to § 87(2)(b) or have any physical interaction with § 87(2)(b) in that manner. He did not observe any injury to § 87(2)(b)'s lip. He did not observe any officer kick § 87(2)(b). He did not observe an unmarked Ford Explorer at the location. He did not recall if any lieutenants were at the location. He did not see Sgt. Terpos or Lt. McCormack at the incident location.

The passenger of the vehicle gave him his driver's license. PO Murphy wrote down the information and gave it to the officers who initiated the car stop. PO Murphy spoke with the passenger briefly near the side of the vehicle. The passenger leaned against a car while he spoke with him. PO Murphy did not remember his name. PO Murphy did not speak with § 87(2)(b). No officer stated, "Say something now, fucking tough guy," to § 87(2)(b).

PO Murphy did not know if § 87(2)(b)'s vehicle was searched. He stated that he did not know how § 87(2)(b)'s vehicle was transported to the stationhouse. It was explained that another officer noted in his memo book that PO Murphy transported the vehicle to the stationhouse. PO Murphy stated that it was possible that he did, but that he did not remember if he did so.

PO Murphy stated that the car was an older vehicle, but he did not recall any damage on the vehicle when he encountered it. It was explained that § 87(2)(b) alleged that the back seat of the vehicle was pulled out of the holder, there were scratches on the side of the vehicle, and that the passenger side door handle was broken. He did not observe any of this damage. He did not know if the vehicle was searched and stated that he did not do so. He was shown the photographs of the vehicle taken by § 87(2)(b). He stated that he did not recall whether or not the vehicle was damaged as it was in the photos before, after, or during the incident.

He did not recall if he entered the stationhouse at the same time as § 87(2)(b) but recalled that he was going end of tour at 4:00 AM and would have entered the stationhouse shortly after the incident. He was at the incident location for approximately five minutes.

He did not hear any officer refer to § 87(2)(b) as an “asshole” or a “jerk off” inside of the stationhouse.

Police Documents

Prisoner Movement Slip

There are no visible injuries to § 87(2)(b)'s face in the picture on the movement slip (encl. 29).

32nd Precinct Roll Call

The tour 1 roll call on July 3, 2008, showed that Lt. McCormack was assigned to the desk and worked from 10:00 PM on July 2, 2008 through 7:45 AM on July 3, 2008. Sgt. Terpos is assigned as the supervisor and was assigned to patrol car # 2364. He worked from 11:05 PM on July 2, 2008, through 7:50 AM on July 3, 2008. No other lieutenants or sergeants were scheduled to work at that time. PO Jacob and PO Derenze were assigned to patrol car # 2381, worked from 11:15 PM through 7:50 AM, and were assigned to Sectors A, B, and C. The tour 3 roll call from July 2, 2008, showed that PO Murphy was assigned to van #5706 and worked from 7:30 PM on July 2, 2008, through 4:05 AM on July 3, 2008. He was assigned as the impact training officer. Sgt. Gallicchio worked from 7:15 PM on July 2, 2008 through 4:12 AM on July 3, 2008. He did not note his operator. He was assigned as the impact sergeant (encl. 24a-t).

32nd Precinct Command Log

PO Jacob was assigned as the arresting officer. § 87(2)(b) was arrested on July 3, 2008, at West 139th Street and 7th Avenue at 3:12 AM for obstruction of governmental administration and resisting arrest by PO Jacob. He entered the 32nd Precinct stationhouse at 3:15 AM. His condition was listed as apparently normal. The command log also showed that Sgt. Terpos was on the desk at 2:11 AM on July 3, 2008 and that 3:16 AM, Lt. McCormack returned from a stationhouse inspection. At 3:17 AM, Lt. McCormack was assigned to the desk (encl. 26a-f).

SPRINT

Sector 32A responded to 7th Avenue and 134th Street. There was an arrest for a crime at 2:56 AM. At 3:11 AM, the arrest was verified. The SPRINT only showed Sector A present. At 5:36 AM, 1 male was being transported to the 28 HUB. At 6:00 AM, no further (encl. 25).

Arrest Report/ BADS Arrest Report

§ 87(2)(b) was arrested on July 3, 2008, at 3:12 AM, at the location of Powell Boulevard and West 135th Street to West 134th Street in the Bronx. He was arrested for obstruction of governmental administration and resisting arrest. The narrative stated that § 87(2)(b) was operating a 1989 Purple Chevy Caprice with excessive tint on the front windows as well as a loud exhaust. He yelled out, “What the fuck are you stopping me for?” § 87(2)(b) was asked for his paperwork, and he replied, “I don’t have to give you shit.” The report stated that, “These actions obstructed governmental administration by preventing the arresting officer from identifying the motorist and issuing a summons. When told to step out of the vehicle, the defendant refused, forcing officers to physically remove him from the vehicle at which time he resisted arrest by flailing his arms to prevent handcuffing.” § 87(2)(b) is 5’3” tall

and weighs 130 pounds, according to the arrest report. The BADS report showed that physical force was used to restrain/control/remove (encl. 31a-d, 32, 22a-g).

32nd Precinct Prisoner Holding Pen Roster

§ 87(2)(b) was in the prisoner holding pen at 3:30 AM. He was released at 5:35 AM and was transferred to the 28th hub. PO Jacob was the guarding member of service (encl. 28).

Property Vouchers

A Palm Treo cell phone, Palm Treo cell phone battery, and \$922.00 in USC was vouchered for § 87(2)(b) (encl. 27a-b).

PBMN Prisoner Checklist Guidelines

§ 87(2)(b) signed a form stating that he did not have any injuries at 5:20 AM. The desk officer was Lt. McCormack (encl. 30a-b).

§ 87(2)(b)

Officer CCRB Histories

PO Christopher Derenze is a three-year veteran of the NYPD and has no substantiated allegations on his record (encl. 4).

PO Craig Jacob is a four-year veteran of the NYPD and has no substantiated allegations on his record (encl. 5).

Sgt. Alfred Gallicchio is a ten-year veteran of the NYPD and has no substantiated allegations on his record (encl. 6).

Conclusions and Recommendations

Officer Identification and Pleading Allegations

The SPRINT indicated that the 32nd Precinct, Sector A responded to the incident (encl. 25). PO Jacob and PO Derenze were assigned to Sector A. PO Jacob is listed as the arresting officer. § 87(2)(b) stated that he identified the officers by their badges. He described PO Derenze as having a “spiky high-top hair cut”, between twenty-four and twenty-five-years-old, clean shaven, 5’6” tall, of either Italian or Hispanic descent, and weighs 165 pounds. PO Derenze is a twenty-six-year-old white male who is 5’8” tall, weighs 168 pounds, with brown hair and brown eyes. He described PO Jacob as a white male officer with black hair, who is 5’9” tall, weighs 170 pounds, and is between twenty-eight and thirty-three-years-old. PO Jacob is a twenty-eight-year-old white male who is 5’9” tall, weighs 220 pounds, with brown hair and brown eyes.

Both PO Jacob and PO Derenze noted in their memo books that PO Murphy transported § 87(2)(b)’s vehicle to the stationhouse. PO Jacob stated that Sgt. Gallicchio would have been the supervisor on patrol that evening. Sgt. Gallicchio stated that he would have either worked with PO Murphy or PO Jones. PO Murphy stated that he believed he was the operator of Sgt. Gallicchio’s vehicle. There were no other patrol supervisors on duty at the time of the incident. PO Murphy and Sgt. Gallicchio worked to approximately 4:00 AM on July 3, 2008, and were on their way to the stationhouse to prepare for their end of tour at the approximate time of the incident. PO Murphy recalled being present at the incident location and Sgt. Gallicchio did not recall the incident, but stated that it was likely that he was present.

§ 87(2)(b) stated that PO Derenze and other officers pulled him out of his vehicle. Both PO Derenze and PO Jacob stated that they pulled § 87(2)(b) out of the vehicle. Therefore Allegations A and B are being pled against them respectively.

§ 87(2)(b) stated that an officer whom he did not observe spoke discourteously toward § 87(2)(b) and an officer whom he did not observe pointed his gun at § 87(2)(b). § 87(2)(b) did not provide a statement to the CCRB. Therefore, Allegation C and D are being pled against An officer.

§ 87(2)(b) alleged that officers whom he did not see kicked him on his torso an officer kneed him in his lip. No officer stated that this occurred, therefore, Allegation E is being pled against Officers.

§ 87(2)(b) alleged that a sergeant on the scene called him a “fucking tough guy” and pushed him into a vehicle at the incident location, and called him an asshole at the 32nd Precinct stationhouse. § 87(2)(b) described the sergeant as a white male who was "heavy-set" but not "fat", between 5'7" and 5'8" tall, and weighed between 210 and 220 pounds. He also stated that the same sergeant pushed him against a vehicle at the incident location. Sgt. Gallicchio is a 35-year-old white male who is 5'9" tall, weighs 220 pounds, with brown hair and green eyes. The investigation determined that Sgt. Gallicchio was the only sergeant at the arrest location and fit the description that § 87(2)(b) provided. Therefore Allegations F, G, and J are being pled against him.

§ 87(2)(b) alleged that officers whom he could not describe or identify searched his vehicle at the incident location. Therefore, Allegation H is being pled against Officers.

§ 87(2)(b) alleged that PO Derenze and PO Jacob used discourteous language at the 32nd Precinct stationhouse. Therefore, Allegations I and K are being pled against them respectively.

Undisputed Facts

On July 3, 2008, at approximately 3:12 AM, PO Derenze and PO Jacob effected a vehicle stop of § 87(2)(b)'s vehicle. § 87(2)(b) was seated in the passenger seat. When asked to exit the vehicle, § 87(2)(b) refused to do so. Officers physically removed him from the vehicle. § 87(2)(b) was placed on the ground. § 87(2)(b)'s vehicle was transported to the 32nd Precinct stationhouse. § 87(2)(b) was arrested for obstruction of governmental administration and resisting arrest and was transported to the 32nd Precinct stationhouse.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegations not Plead

The alleged damage to § 87(2)(b)'s property is not being pled as an allegation. § 87(2)(b) did not observe any officer damage his vehicle or take any action that he could reasonably believe would cause the lasting damage to his vehicle that was depicted in the photos and described during his interview. He gave no reason that he believed an officer damaged his vehicle.

The car stop in this case is not being pleaded as § 87(2)(b) acknowledged that he had a loud exhaust and tinted windows, which was noted as the reason for the stop in the arrest report.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegation A: Use of Force: PO Christopher Derenze used physical force against § 87(2)(b) at Powell Boulevard and West 135th Street in Manhattan.

Allegation B: Use of Force: PO Craig Jacob used physical force against § 87(2)(b) at Powell Boulevard and West 135th Street in Manhattan.

Pursuant to a lawful vehicle stop, an officer can order a civilian to exit his vehicle (encl. 1).¹ § 87(2)(b) had excessively tinted windows making it difficult for officers to see into the vehicle. In addition, § 87(2)(b) was not cooperating with a lawful order to exit the vehicle. § 87(2)(b), § 87(2)(g)

[REDACTED]

¹ Kamins, Barry. New York Search & Seizure. § 5.03, pp. 5-64, (2007 ed.).

Allegation C: Discourtesy: An officer spoke obscenely and rudely to § 87(2)(b)

Allegation D: Use of Force: An officer pointed his gun at § 87(2)(b)

Given that § 87(2)(b) did not provide a sworn statement an investigation of the allegations or identification of the subject officer is impossible. § 87(2)(g)

Allegation E: Officers used physical force against § 87(2)(b) while he was on the ground at Powell Boulevard and West 135th Street in Manhattan.

§ 87(2)(b), § 87(2)(g)

The NYPD guidelines state, “Only that amount of force necessary to overcome resistance will be used to effect an arrest (encl 1a-b) (encl. 2a-b).”² § 87(2)(b) was placed on the ground to be handcuffed because he displayed combative behavior toward the officers, both physically and verbally. § 87(2)(b) did not request or receive medical attention and he alleged excessive force for which he did not sustain additional injuries. § 87(2)(g)

Allegation F: Discourtesy: Sgt. Alfred Gallicchio spoke obscenely and rudely to § 87(2)(b) at Powell Boulevard and West 135th Street in Manhattan.

Allegation G: Sgt. Alfred Gallicchio used physical force against § 87(2)(b) at Powell Boulevard and West 135th Street in Manhattan.

Allegation I: Discourtesy: PO Christopher Derenze spoke obscenely and rudely to § 87(2)(b) at the 32nd Precinct stationhouse.

Allegation J: Discourtesy: Sgt. Alfred Gallicchio spoke obscenely and rudely to § 87(2)(b) at the 32nd Precinct stationhouse.

Allegation K: Discourtesy: PO Craig Jacob spoke obscenely and rudely to § 87(2)(b) at the 32nd Precinct stationhouse.

No officer stated that any officer used discourteous language at either the arrest location or at the 32nd Precinct stationhouse. § 87(2)(b), § 87(2)(g)

Allegation H: Abuse of Authority: Officers searched the vehicle in which § 87(2)(b) was an occupant.

As established in the assessment of evidence, PO Murphy transported § 87(2)(b)'s vehicle to the 32nd Precinct stationhouse. § 87(2)(b) was lawfully arrested and was being transported to the stationhouse. Because he was being transported to the stationhouse, his vehicle had to be transported to the stationhouse as well, which means an officer had to drive it there. Barry Kamins's Search & Seizure law outlines that a search of a vehicle that is in the custody of the police department serves several purposes including to “protect the police from danger (encl. 3a-c).”³ Officers have discretion whether or not to impound a car. In this instance, impoundment of the vehicle was not necessary considering the “minor nature of the arrest” and the fact that the “defendant was not expected to be in custody for a lengthy period of time (encl. 3a-c).”⁴ The officers used their discretion to release the vehicle to § 87(2)(b)'s sister. Probable cause is not necessary for the search in that the search was an “administrative caretaking function (encl. 4a-c).”⁵ § 87(2)(g)

² Kamins, Barry. New York City Police Department Patrol Guide Manual. § 203-11.

³ Kamins, Barry. New York Search & Seizure. §5.05[6][a] 2007.

⁴ Kamins, Barry. New York Search & Seizure. §5.05[6][e] 2007.

⁵ Kamins, Barry. New York Search & Seizure. §5.05[6][a] 2007.

Investigator: Stacy Paver

Date: July 13, 2009

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: